IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
Writ Petition No.4318 of 2006

Narendra Kalyanji Guri @ Bhanushali — Petitioner
Vs.
The State of Maharashtra & ors. — Respondents

Mr.Tripathi with Mr.N.M.Pandey for petitioner.
Mr.Vasant Dhawan for Resp.Nos.3, 4A to 4C.
Mr.A.H.Palekar, AGP for State.

CORAM: B.H.MARLAPALLE,J.

July 14, 2006.

P.C.

. Heard Mr.Tripathi, the learned counsel for the petitioner who is defendant no.1 in S.C.Suit No.677 of 2001.

. Respondent nos.1 and 2 are not the necessary parties and they stand deleted forthwith.

. It appears that in the pending suit the petitioner did not cause his appearance and, therefore, the trial Court after waiting for about four years passed an order on 19/2/2005 that the suit would proceed ex-parte. Sometimes in the month of June 2006 i.e. after about six months the petitioner moved Noticed of Motion No.2475 of 2006 and prayed for setting aside the order dated

19/2/2005. By the impugned order dated 23/6/2006 the learned Judge of the trial Court was pleased to reject the said Notice of Motion.

. It is obvious that along with the Notice of Motion Written Statement was not placed before the trial Court and the petitioner only prayed for setting aside the order dated 19/2/2005. The learned Judge of the trial Court did not find merit in this prayer and more so because of the laxity on the part of the petitioner who claimed that he had engaged some other Advocate and he did not take any steps to file his appearance. Such a ground cannot be a sufficient reason to set aside the order directing the trial of the suit to proceed ex-parte and, therefore, no interference is called for in the impugned order.

. At this stage, the learned counsel for the petitioner prays for withdrawal of the petition with liberty.

. The petition is allowed to be withdrawn with liberty as is available. It is made clear that in case the petitioner approaches the trial Court with

written statement and prays for taking the same on record by condoning delay, such an application may be considered on its own merits, if filed within two weeks from today.

(B.H.MARLAPALLE,J.)